

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the  
District of  
Division

FILED  
17 OCT 23 PM 12:58  
U.S. DISTRICT COURT  
DISTRICT OF CLEVELAND  
CLEVELAND

Case No.

1:17 CV 2229

(to be filled in by the Clerk's Office)

JUDGE GWIN

Danell Hicks

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

(See Attachments 2 of 11, 3 of 11, and B Attachment)

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Danell Hicks

All other names by which  
you have been known:

ID Number

03 09980

Current Institution

Cuyahoga County Jail

Address

P.O. Box 5600

Cleveland

City

OH

State

44101

Zip Code

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Cleveland Police Department

Job or Title (*if known*)

Shield Number

Employer

Address

City

State

Zip Code

☒ Individual capacity☒ Official capacity

Defendant No. 2

Name

CALVIN WILLIAMS

Job or Title (*if known*)

Chief of Police

Shield Number

Employer

Address

City

State

Zip Code

☒ Individual capacity☒ Official capacity

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## Defendant No. 3

Name

Cuyahoga County City Jail

Job or Title (if known)

Shield Number

Employer

Address

P.O. BOX 5600, 1215 WEST THIRD STREET

Cleveland

OH

44113

City

State

Zip Code

☒ Individual capacity☒ Official capacity

## Defendant No. 4

Name

Cuyahoga County Jail

Job or Title (if known)

Shield Number

Employer

Address

P.O. BOX 5600, 1215 WEST THIRD STREET

Cleveland

OH

44113

City

State

Zip Code

☒ Individual capacity☒ Official capacity

## II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

I Amendment, IV Amendment, V Amendment, and the VIII Amendment, XIV Amendment

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

#5. Marcus Harris

Director of Inmate Health Services

☒ Individual Capacity ☒ Official Capacity

#6. Director of The Cuyahoga County Correctional Center

1215 West Third Street

Cleveland OH 44113

☒ Individual Capacity ☒ Official Capacity

(12 - POLICE OFFICERS)

#7. Russell D. Lyons - ☒ Individual Capacity ☒ Official Capacity

#8. JOSE A. DELGADO JR. - ☒ Individual Capacity ☒ Official Capacity

#9. MICHAEL B. BUDNY - ☒ Individual Capacity ☒ Official Capacity

#10. ARIEL POJAS - ☒ Individual Capacity ☒ Official Capacity

#11. MICHAEL T. GELSKE - ☒ Individual Capacity ☒ Official Capacity

#12. ANGEL SERRA - ☒ Individual Capacity ☒ Official Capacity

#13. PATRICK M. LIVINGSTON - ☒ Individual Capacity ☒ Official Capacity

#14. DANA SAFFO - ☒ Individual Capacity ☒ Official Capacity

#15. JASON WARRINGTON - ☒ Individual Capacity ☒ Official Capacity

#16. RAMON J. KALOCZI JR. - ☒ Individual Capacity ☒ Official Capacity

#17. ANDREW B. CRYTZER - ☒ Individual Capacity ☒ Official Capacity

#18. JAMES P. DOOMEY JR. - ☒ Individual Capacity ☒ Official Capacity

#19. DR. ALAN GATZ

METRO HEALTH SYSTEMS

☒ Individual Capacity ☒ Official Capacity

#20 METRO HEALTH SYSTEMS

2500 METRO HEALTH DRIVE

CLEVELAND, OHIO - 44102

☒ Official Capacity

# Medical Department CUYAHOGA COUNTY CORRECTIONAL CENTER

1200 WEST THIRD ST. CLEVELAND OHIO 44113

☒ Individual Capacity ☒ Official Capacity

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

( see Attachments A 1-5 )

### III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☒ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (*explain*) \_\_\_\_\_

### IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

( see Attachments A 1-5 )

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

( see Attachments A 3-5 )

Attachment A

On Tuesday February 28, 2017. I was parked on E. 23rd, Krause Ct. About two minutes after I parked, my car was approached by two males. The one male came to my driver side window and immediately said "Get out the car. My first thought and response was for what? The male never identified himself as a police officer, nor did the male ask for identification, my driver license nor my car insurance. Being tired and under the influence I didn't know what to think, I just came from picking my brother and his baby mother up from the bar and was bringing them to their vehicle which was parked in front of my vehicle. I asked the man again for what reason would you need me to get out of my vehicle. As I was speaking to this male, I then noticed multiple officers began to arrive with their guns drawn and aimed to be fired at my vehicle. With drugs going through my system I immediately became paranoid and feared that officers would shoot. I couldn't really understand what was going on nor why. I was parked not breaking any laws, my tags and registration were legally valid and in good standing. I was not causing any type of public disturbance nor harm to anyone. It was just four african american individuals in one vehicle and I feel officers where racial profiling being they were not on a disturbance call, nor me or my vehicle suspected in the committance of any crime. I'm a citizen and it is my civil right and I am entitled to enjoy all rights, and protections, and is entitled to all its privileges and that includes the right to all citizens to be free to do as they please while respecting the rights of others, and freedom of association. There was no probable cause to even approach my vehicle. Probable cause is a reasonable ground to suspect that



Attachment A

a person has committed or is committing a crime or that a place contains specific items connected with a crime, and probable cause amounts to more than a bare suspicion. Four african americans in a vehicle in a certain neighborhood, or going or coming from a restaraunt or bar is not suspicious but Racial Profiling. And the law-enforcement practice of using race, national origin, or ethnicity as a salient basis for suspicion of criminal activity is not probable cause. As a officer was removing the rear passengers of my vehicle my brother (Daron Hicks) and his baby Mother (Chauna Cheers). another officer then opened fire and shot out my passenger window. confused and not knowing what else to do. I picked up my phone and called my mother, I informed her of the police having me surrounded and shot out my window and I needed her there because I thought they were gonna kill us. Once my mother arrived on the scene, I could hear her questioning and asking the officers what was going on with her boys, officers at that time had no knowledge of the identitie of the driver and passenger in the front because they never asked. I heard my mother ask the officer's where were her other son (Daron) and I could hear officers repeatedly lie and deny having custody of my brother. In my mind were so many crazy thoughts, Due to all the racial police killings of young black males going on I thought officers harmed my brother in the worst way. I was confused and I was about to get out of vehicle. When several gun shots began to be fired at my vehicle. My passenger Antonio Powell got out of the vehicle from the passenger side and I watched as the officers shot him down. It was devastating. seeing my friend fall I just knew

Attachment A

that he was dead, all I Felt was pain shooting throughout my body all over. All I wanted was for everything to stop, the pain, the screams, the shooting, the pain was excruciating the officers fired repeatedly at my vehicle hitting me I've learned seventeen different times with seventeen different bullets. A few minutes after the shooting stoped, I was paralyzed and in so much pain, I watched as officers dragged my paralyzed body out of the passenger side of my vehicle and dragged me across the concrete to the rear end of the vehicle and handcuffed me it was like looking at myself through someone elses eyes its hard to explain I watched as officers then unhandcuffed me and put me upon a stretcher then I passed out. After coming out of acoma. I learned I was in for approximately one week, I was discharged from Metro Hospital and transferred to Coyahoga County City Jail. Fresh out of acoma still in excruciating pain and was then discharged from Metro Hospital still made to sleep on a concrete floor on a thin mattress for over 24 hours. I was in so much pain and was complaining when an officer informed me of what did I expect I was shot seventeen different times, then the officer stated "good thing I wasn't working because you would be dead, so suck it up." I Couldn't believe it I feared for my life. I mean really terrified, I had pain in my lower spine, I could barely move, my left foot and left elbow was scourching in shock spasms of chronic pain. I had stitches in my lower back, and a brace on my left foot in which I had no feelings in due to the nerve and muscle damage. I also had a cast on my left arm in which itself was causing excruciating pain all this bodily damage along



Attachment A

With the bullet wounds suffered from the shooting, I couldn't do nothing but cry and pray. The pain and suffering was so unimaginable. After being arraigned in Cuyahoga County Court on March 17, 2017. I was then bonded over to the Cuyahoga County Jail, upon intake and admittance I spoke to a Dr. Alan Gatz, and he stated that He will not allow me to get the medication prescribed from hospital in the County Jail, and I asked why being I was in so much pain, The Dr then stated that they don't give them medication here and if I wanted special treatment I should not have come to Jail. I asked if the medications would be returned back to my mother being she purchased them from Walgreens and he stated they should and yet my mother has not received medication or refund for purchase. Once finished speaking with Dr. Alan Gatz going over my medical condition and attention needed, I was then placed on pod F on the 6th floor in a three man cell which is specifically used for inmates in serious medical conditions. Yet inside of medical cell was a hospital bed in very poor conditioning. It caused my body ache and pain continually being metal springs where poking through mattress having me suffering tremendously. I reported problem of conditions immediately and all complaints were ignored. By the time medical department replaced the hospital bed, the cast on my left arm was being removed with scratching and wear from sleeping conditions of bed, and I was moved to a single man cell, where again I was given a thin mattress, thinner and in worse conditioning than medical bed being there was less cushioning and I was made to sleep again on a cold concrete floor in complete knowledge of my critical medical conditions. From April to June, When I was moved

Attachment A

I never imagined being moved to a concrete floor it was hard, cold, and dusty, I went through tremendous pain each morning forcing myself up to eat breakfast, forcing myself up to take medication and forcing myself to go to medical treatments, getting up and down from off a concrete floor in the medical condition I was in was torturing and cruel punishment I feel when I was moved to a bottom bunk my bullet wounds were almost healed, every night forcing myself up numerous times throughout the night to empty my colostomy bag. August, September and November came after my worst month of pain in October. I have been constantly requesting to nurse Lori True to speak with a Dr. Due to the pain in my lower back; I feel from getting up and down from off the floor for so long, the metal plates and screws in my left elbow and left foot both continue to cause serious pain. I've had no nerve, nor pain medication in which was strong enough to mellow the pain at times. It's unbearable my left foot and leg damage is excruciating at times, from the nerve and muscle injuries.

The police, medical department, nurses, as well as the Cuyahoga County Jail have all shown discrimination to the plaintiff, refusal and denial of proper care and medical attention critical to me getting better to even be able to walk normally again. The required treatment and care has worsened over time plaintiff suffers internally, inflammation of muscles and scar tissue causing much fatigue and deliriousness of strenuous vexation causing severe hindrance to my recovery the accumulation of nerve damage and abuse of muscle erosions full effect may not be seen until my full recovery which may be three to four years from now.

C. What date and approximate time did the events giving rise to your claim(s) occur?

(see Attachments A 1-5)

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

(see Attachments A 1-5)

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

(see Attachments A 1-5)

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Plaintiff due to all the trauma, pain, and suffering yet still to come and thus far is requesting \$1,000,000, one million dollars for each time I was shot that's a total of \$17,000,000 Seventeen Million Monetary.  
AND FOR PUNITIVE DAMAGES PLAINTIFF REQUEST \$30,000,000 THIRTY MILLION DOLLARS  
FOR A MONETARY AND PUNITIVE TOTAL OF \$47,000,000 Forty Seven Million Dollars.

**VII. Exhaustion of Administrative Remedies Administrative Procedures**

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☒ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Cuyahoga County Jail and City Jail

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☒ No

☐ Do not know

If yes, which claim(s)?

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

To the medical department  
and the Sheriff's Office

2. What did you claim in your grievance?

Medical neglect, pain from conditionings, and complaint of medication and treatment

3. What was the result, if any?

No response

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

I talked to nurses and staff and wrote grievance to sheriff's office with no results.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

N/A

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

N/A

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

They do as they please when they please I still have gotten no responses.  
(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

#### VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.



A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s)

Defendant(s)

N/A

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition.

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

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☐ Yes

☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) \_\_\_\_\_

Defendant(s) \_\_\_\_\_

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition \_\_\_\_\_

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

**IX. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: Dr 10/16/2017

Signature of Plaintiff

Danell Lee Hicks

Printed Name of Plaintiff

Danell Hicks

Prison Identification #

0309980

Prison Address

CUYAHOGA COUNTY JAIL PO BOX 5600

CLEVELAND

OH

44113

City

State

Zip Code

**B. For Attorneys**

Date of signing: \_\_\_\_\_

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address